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Calendar No. 819

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-557

ORIGINAL

CHARLES C. DEAM WILDERNESS

SEPTEMBER 20 (legislative day, SEPTEMBER 8), 1982.—Ordered to be printed

Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2710]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2710) to establish a wilderness area in the Hoosier National Forest area, Indiana, having considered the same, reports favorably thereon with an amendment to the text and an amendment to the title and recommends that the bill (as amended) do pass.

The amendments are as follows:

1. Strike out all after the enacting clause and insert in lieu thereof the following:

That in furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131), certain lands within the Hoosier National Forest, Indiana which comprise approximately twelve thousand nine hundred and fifty-three acres as generally depicted on a map entitled "Charles C. Deam Wilderness—Proposed", dated April 30, 1982, are hereby designated as wilderness, and therefore as a component of the national wilderness system, and shall be known as the Charles C. Deam Wilderness.

SEC. 2. Subject to valid existing rights, the Charles C. Deam Wilderness as designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 3. Nothing in this Act shall affect the right of public access to cemeteries located within the Charles C. Deam Wilderness, including the Terril Cemetery. The right of access to privately owned land completely surrounded by national forest lands within the area designated by this Act as wilderness and to valid occupancies wholly within the area designated by this Act as wilderness shall be protected in accordance with the provisions of section 5 of the Wilderness Act.

SEC. 4. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas in Indiana and the environmental impacts associated with alternative allocations of such areas.

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(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest lands in States other than Indiana, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Indiana;

(2) with respect to the national forest lands in the State of Indiana which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Indiana reviewed in such final environmental statement and not designated as wilderness by this Act shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Indiana for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 5. As soon as practicable after enactment of this Act, maps and legal descriptions of the Wilderness Area shall be filed with the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and such maps and legal descriptions shall have the same force and effect as if included in this Act: *Provided, however,* That corrections of clerical and typographical errors in such legal descriptions and maps may be made.

Amend the title so as to read:

A bill to establish the Charles C. Deam Wilderness in the Hoosier National Forest, Indiana.

PURPOSE

The purpose of S. 2710 is to establish a 12,953 acre wilderness area within the Hoosier National Forest, Indiana and to designate the area as the Charles C. Deam Wilderness.

BACKGROUND AND NEED

The previous Administration, as a result of RARE II, recommended two new wildernesses in Indiana. The two areas totaled 10,100 acres and included a proposed 6,400-acre Grubb Ridge wilderness (9,340) and a proposed 3,610-acre Cope Hollow wilderness (9,341).

S. 2710 would designate a 12,953-acre Charles C. Deam Wilderness. The proposed wilderness encompasses the 6,400-acre Grubb Ridge proposal and the 3,610-acre Cope Hollow proposal. In addition, approximately 2,900 acres of contiguous lands in the Terril Ridge area are included in S. 2710. The Terril Ridge area was not included in the RARE II inventory because of an existing road that provides access to the Terril Cemetery. The bill would provide for continued public access to the cemeteries located within the wilderness area.

The proposed wilderness is located within the Crawford Uplands in southern Indiana. The area has been strongly dissected by small

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streams leaving sharp ridgelines up to 250 feet in height. The Mount Carmel fault, the only faultline in Indiana, passes through the area.

For the most part, the area is covered with oak-hickory forest with a good percentage of tulip poplar and planted pine. Natural regeneration is occurring in old fields along some ridges, providing breaks in the forest cover. The area contains some of the best populations of whitetail deer, ruffed grouse, and wild turkey to be found in Indiana. The area is located less than an hour drive from Indianapolis and a fifteen minute drive from Bloomington, Indiana, making this a popular hiking, backpacking, and hunting area.

All of the proposed wilderness is classified as commercial forest land capable of producing an estimated potential yield of 600 thousand board feet of sawtimber annually. There are 19 oil and gas lease applications pending within the proposed wilderness. Although most of the area has a high potential for oil and gas development, these lease applications are among 157 pending applications involving 156,000 acres on the Hoosier National Forest. Designation of this wilderness will not significantly affect the overall development of oil and gas on the Forest. There are only four separate parcels of private land totaling 18.4 acres within the proposed wilderness. They range in size from 1.4 acres to 12 acres.

Senator Lugar, in his introductory remarks, described his intent for S. 2710 as follows:

> Senator Quayle, Congressman Hamilton, Congressman Deckard and I agree that these bills represent a final compromise settlement of the issues and that the number of acres of wilderness is sufficient to permit a wide variety of recreational, educational and scientific opportunities. All remaining lands in the Hoosier National Forest would be released for multiple use management by U.S. Forest Service. Any further wilderness designations in Indiana would require an act of Congress.

The measure provides that the wilderness area be named after Charles C. Deam (1865–1953), the first State Forester in Indiana. This proposal is a compromise arrived at after almost 10 years of negotiations between the State government, local landowners, environmental groups, and the National Forest Service. In 1975 a proposal for a 32,000-acre area passed the Senate but not the House—the principal difficulty being the large number of private inholdings.

The present proposal is based on the second Roadless Area Review and Evaluation (RARE II), in which the previous Administration recommended for wilderness a total of 10,010 acres, encompassing a 6,400-acre Grubb Ridge area and a 3,600-acre Cope Hollow area. S. 2710 would designate both recommended areas and add to them a 2,922-acre area in the adjacent Terril Ridge. Four separate parcels of privately-owned land, totalling 18.4 acres, and six small private cemeteries, sttill in use, are located within the proposed boundaries. Another parcel of land, and a gravel road separating the Grubb Ridge and Cope Hollow areas, are excluded from the proposed wilderness area.

The bill also provides for access to Terril Ridge Cemetery and privately owned lands, declares the RARE II EIS to be legally sufficient,

releases non-designated lands into multiple use management, and prohibits a further state-wide roadless area review unless authorized by Congress.

S. 2710 was endorsed by all witnesses at the August 12 hearing, including representatives of the Governor, regional environmental groups, and local citizens. The Administration testified in support of the legislation with amendments.

LEGISLATIVE HISTORY

S. 2710 was introduced on July 1, 1982, by Senators Lugar and Quayle. The Public Lands and Reserved Water subcommittee held a hearing on August 12, 1982. A similar bill, H.R. 6728, was introduced July 1, 1982, by Congressman Hamilton, and referred to the House Committee on Interior and Insular Affairs.

At a business session on September 15, 1982, the Senate Committee on Energy and Natural Resources ordered S. 2710, as amended, favorably reported.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources in an open business session on September 15, 1982, by unanimous vote of a quorum present recommends that the Senate pass S. 2710, with an amendment in the nature of a substitute, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield	
Mr. Domenici	
Mr. Wallop	
Mr. Warner [1]	
Mr. Humphrey [1]	
Mr. Murkowski	
Mr. Nickles	
Mr. East [1]	
Mr. Heinz [1]	
Mr. Jackson	
Mr. Johnston [1]	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Matsunaga [1]	
Mr. Melcher	

[1] Indicates voted by proxy.

COMMITTEE AMENDMENTS

The Committee adopted an amendment in the nature of a substitute offered by Senator Wallop to S. 2710 as introduced together with an amendment to the title.

Section 1 of the amendment designates 12,953 acres within Hoosier National Forest, Indiana, as a wilderness to be known as the Charles C. Deam Wilderness.

Section 2 provides for the management of the area pursuant to the Wilderness Act.

Section 3 of the bill as ordered reported is intended to protect the right of public access to cemeteries within the area and access to privately-owned or occupied lands as provided in section 5 of the Wilderness Act. There are six cemeteries within the area designated as wilderness. It is the intent of the Committee with respect to the Terril Cemetery, that public access be continued in a manner which will allow relatives and other members of the public to use motorized vehicles to visit gravesites without inconvenience or unnecessary restrictions. The Committee expects the Forest Service and the appropriate county government to cooperate in devising a reasonable plan for continued public access to Terril Cemetery. With respect to the other cemeteries within the wilderness area, the Committee understands that the Forest Service has entered into agreements concerning access with the appropriate county. Nothing in this Act is intended to affect these agreements, and it is the intent of the Committee that these agreements remain in effect unless altered by mutual consent of the parties.

Section 4 finds that the Department of Agriculture has completed the second roadless area review process and Congress has made its own review and examination. It then provides that further wilderness review is not required prior to the revision of the initial land management plans and that the lands shall be managed for multiple use in accordance with applicable law.

Section 5 provides for the preparation of a map of the area.

The Committee also amended the title reflect that the area would be named the Charles C. Deam Wilderness.

COST AND BUDGETARY CONSIDERATIONS

The Committee does not anticipate any additional budgetary impact from enactment of S. 2710, establishing a wilderness area in the Hoosier National Forest, Indiana.

The measure (S. 2710) does not authorize any additional budget authority. In the event that there are any administrative costs associated with the bill, the Committee intends that any expenses be absorbed within funds otherwise available to the Department of the Interior.

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., September 17, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2710, a bill to establish the Charles C. Deam Wilderness in the Hoosier

National Forest, Indiana, as ordered reported by the Senate Committee on Energy and Natural Resources, September 15, 1982.

This bill adds approximately 12,953 acres of land in the Hoosier National Forest, Indiana, to the national wilderness preservation system. Based on information from the National Forest Service, it is estimated that additional costs for the surveying, planning and related activities associated with the wilderness designation will be approximately $50,000 per year during the next three fiscal years.

The provisions of the National Wilderness Preservation Act stipulate that all timber located in units of the national wilderness preservation system be removed from the timber base of the national forest in which it is located. However, because the annual cut in the Hoosier National Forest does not approach the maximum timber harvest allowed, no federal timber receipts are expected to be forgone as a result of enactment of this legislation.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2710, a bill to establish a wilderness area in the Hoosier National Forest, Indiana.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2710.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth Executive agency recommendations relating to S. 2710 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., August 13, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 2710, a bill "To establish a wilderness in Hoosier National Forest area, Indiana."

The Department of Agriculture has no objection to enactment of S. 2710. We suggest several clarifying amendments.

S. 2710 would designate a 12,953-acre Charles C. Deam Wilderness on the Hoosier National Forest in Indiana. The previous Administration, as a result of RARE II, recommended two new wildernesses in Indiana. The two areas totaled 10,100 acres and included a proposed 6,400-acre Grubb Ridge wilderness (9340) and a proposed 3,610-acre Cope Hollow wilderness (9341). The proposed wilderness encompasses the 6,400-acre Grubb Ridge proposal and the 3,610-acre Cope Hollow proposal. In addition, approximately 2,900 acres of contiguous lands in the Terril Ridge area are included in S. 2710. The Terril Ridge area was not included in the RARE II inventory because of an existing road that provides access to the Terril Cemetery. The bill would provide for continued public access to the cemetery.

The proposed wilderness is located within the Crawford Uplands in southern Indiana. For the most part, the area is covered with oak-hickory forest with a good percentage of tulip poplar and planted pine. Natural regeneration is occurring in old fields along some ridges, providing breaks in the forest cover. The area contains some of the best populations of whitetail deer, ruffed grouse, and wild turkey to be found in Indiana. The area is located less than an hour drive from Indianapolis and a fifteen minute drive from Bloomington, Indiana, making this a popular hiking, backpacking, and hunting area.

All of the proposed wilderness is classified as commercial forest land capable of producing an estimated potential yield of 600 thousand board feet of sawtimber annually. There are 19 oil and gas lease applications pending on 11,400 acres within the proposed wilderness. Although most of the area has a high potential for oil and gas development, these lease applications are among 157 pending applications involving 156,000 acres on the Hoosier National Forest. We believe designation of this wilderness will not significantly affect the overall development of oil and gas on the Forest. There are only four separate parcels of private land totaling 18.4 acres within the proposed wilderness. They range in size from 1.4 acres to 12 acres.

We do have several management concerns related to this legislation. The Grubb Ridge and Cope Hollow areas are separated by a gravel forest road known as the Tower Ridge Road. This road is a major east-west route through the Forest and this road effectively divides the wilderness into two parts which was the basis for our two separate wilderness proposals. It is not desirable to have one wilderness separated into two units by a transportation corridor. Confusion may occur as to why a road and motorized travel are permitted through the wilderness. Thus, we recommend two wildernesses, each with its own name.

We suggest the wildernesses be named Grubb Ridge Wilderness and Cope Hollow Wilderness. Congress has heretofore named wildernesses only for prominent, nationally recognized individuals such as John Muir, (Jim) Bridger, and Bob Marshall, Charles C. Deam, Indiana's first State Forester and author of several books on trees and shrubs of Indiana, is known throughout the State for his conservation efforts. A State recreation area in the Clark State Forest has been named in his honor which we believe is appropriate recognition of his noteworthy contributions.

There are five old cemeteries located within the proposed wilderness, all generally accessible by motor vehicle. The bill would provide for the right of public access to the Terril Cemetery. We recommend continued visitation be allowed to all the cemeteries. However, motorized access should be limited to relatives of the deceased. Uncontrolled public motorized use of the roads would degrade wilderness values. We would gate the roads and allow family access on a request basis.

It appears that this bill represents a reasonable compromise of an issue that has been debated for over 10 years. While we would prefer wilderness designation be limited to the 10,000 acres recommended as a result of RARE II, we have no objection to inclusion of an additional 2,900 acres in the Terril Ridge area. Since the proposal is very similar to the wilderness recommendation that resulted from RARE II, we have no objection to the area proposed for wilderness designation in S. 2710 but strongly recommend two wildernesses be established outside the Tower Ridge Road corridor.

We are pleased that S. 2710 includes provisions for release of nonwilderness areas. We would have preferred provisions that would have permanently assured status to lands designated for multiple uses other than wilderness in RARE II, rather than the shorter term release provisions of S. 2710.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law would be made by the bill, S. 2710, as reported.

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